

Order 2005-8-19  
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**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

Issued by the Department of Transportation  
on the 25th day of August, 2005

In the Matter of the

**SMALL COMMUNITY AIR SERVICE  
DEVELOPMENT PROGRAM**

**DOCKET OST-2005-20127**

under 49 U.S.C. 41743 *et seq.*

**ORDER AWARDING GRANTS**

**Summary**

By this order, the Department awards financial grants for fiscal year 2005 under the Small Community Air Service Development Program (Small Community Program) to the communities listed in the Appendix A to implement the air service initiatives proposed in their grant applications. These grant awards benefit 68 communities in 29 states. Award recipients must execute a grant agreement with the Department before they can begin to spend funds under the grants awarded by this order.

**Background**

The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21), P.L. 106-181, 114 Stat. 61, established a new pilot program, to be administered by the Department of Transportation, designed to help smaller communities enhance their air service and address issues related to high airfares.<sup>1</sup> AIR-21 authorized the Small Community Program through FY 2003. Vision 100-Century of Aviation Reauthorization Act (Vision 100), P.L. 108-176, amended the program and reauthorized it for five years, through FY 2008. Funds were not appropriated for the first year the program was authorized under AIR-21. Congress appropriated \$20 million for the program in FY 2002, FY 2003, FY 2004, and FY 2005.<sup>2</sup>

<sup>1</sup> See Orders 2002-6-14 and 2003-9-14 for a complete description of the history of the program.

<sup>2</sup> The fiscal year 2003, 2004, and 2005 funds were subject to across-the-board rescissions that reduced slightly the total funds available. The fiscal year 2005 rescission reduced the amount available to \$19,840,000.

The Department is authorized to award a maximum of 40 financial grants in each year, although no more than four may be to communities in the same state. In addition, use of the funds to provide direct subsidy to an air carrier is limited to a period of no more than three years.<sup>3</sup> The law, as amended, directs the Department to give priority to those communities or consortia of communities<sup>4</sup> where: a) air fares are higher than the average air fares for all communities; b) a portion of the cost of the activity contemplated by the community is provided from local, non-airport revenue sources; c) a public-private partnership has been or will be established to facilitate air carrier service to the public; d) improved service will bring the material benefits of scheduled air transportation to a broad section of the traveling public, including businesses, educational institutions, and other enterprises whose access to the national air transportation system is limited; and e) the funds will be used in a timely manner. Vision 100 also amended the statute to clarify that past grant recipients could not receive additional funding under a new grant for the same project.

For fiscal year 2002, the Department made 40 grant awards to communities in 37 states. (Orders 2002-6-14 and 2002-12-16.) In fiscal year 2003, the Department made 36 grant awards to communities in 35 states and Puerto Rico. (Orders 2003-9-14 and 2003-9-25.) In fiscal year 2004, the Department made 40 grant awards to communities in 30 states. (Order 2004-8-30.) In addition, in FY 2004, because some grant recipients from FY 2002 and FY 2003 did not use their grant awards, the Department reallocated those funds to six other communities/consortia. (Order 2004-8-30.)<sup>5</sup> Most grant recipients have proceeded with their grant projects, many of which have resulted in new or expanded services at the communities. Over 55 communities have received new or upgraded services, eight have completed or are in the process of conducting feasibility studies, and many others have completed and implemented marketing and promotional initiatives that have increased enplanements at their airports. Other communities are continuing their projects to recruit additional services at their local airports.

On January 19, 2005, the Department issued a request for proposals from communities interested in receiving a grant this year, and requested that such proposals be filed no later than April 22. Order 2005-1-12. Consistent with previous years, the application process required no particular format. Rather, communities were requested to include information that would help in consideration of their grant requests. Such information included detail about their existing air services, historical services, current service needs and deficiencies, a full description of the community's proposal, plans for implementation, funding requirements, and plans for monitoring the success of the project, including modifying or discontinuing funding if the project is not meeting expectations. To the extent that they considered it necessary for commercial

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<sup>3</sup> The Department has recently received inquiries regarding the Department's selection of grant projects that involve financial support for competitive air service in city-pair markets already receiving service. The Department is still considering these inquiries and will address them separately. None of the proposals selected for this fiscal year involve subsidy for such service.

<sup>4</sup> The authorizing statute defines a consortium of communities as a single entity.

<sup>5</sup> Copies of the grant orders can be found in the Department's docket management system using the following link: <http://dms.dot.gov/>. The docket number is OST-2002-11590 for the 2002 grants; OST-2003-15065 for the 2003 grants; and OST 2004-17343 for the 2004 grants.

purposes, we permitted communities to seek confidential treatment of certain portions of their applications, consistent with the Department's procedural regulations. Based on our experience over the past three years of the program, the request for proposals clarified various issues relating to the grant application process, including the sources of local funding, the consideration of in-kind contributions, the use of grant funds, and the eligibility of past grant recipients and communities now receiving subsidized air service under the Essential Air Service (EAS) program to participate. The order further emphasized that communities would be expected to meet the financial contributions that they include in their proposals.

To facilitate awareness of the program at as many communities as possible, in addition to publishing the order in the Federal Register, copies of the request for proposals were also provided to the American Association of Airport Executives (AAAE), the Airports Council International--North America (ACI-NA), the National Association of State Aviation Officials (NASAO), the National Governors Association (NGA), the Association of County Executives, the Council of Mayors, and the National League of Cities. Notification of the Department's request for proposals was also made available on [www.fedgrants.gov](http://www.fedgrants.gov).

### **Fiscal Year 2005 Grant Applications**

The Department received 84 grant proposals, involving communities in 36 states. Collectively these communities sought nearly \$51 million in Federal assistance to support their proposed grant projects. Predominantly, the communities have pledged to contribute substantial local and state resources (cash from local/state sources, airport revenues, and in-kind contributions) to assist in implementing their proposed projects. The majority of applications were filed by individual communities; however, applications were also filed by consortia of communities. In addition, a number of applications were from communities now receiving subsidized air service under the Department's EAS program, seeking funds to promote those services or to expand their current air services. Most of the applications received this year were from communities that filed applications in previous years. Fifteen applications were filed by new applicant communities.

Similar to prior years, these applications confirm that air service issues continue to be of great concern to many small communities. The communities' applications provided substantial information on historical and current air service and airfare issues facing them, the benefits of air service locally, their proposed initiatives to remedy their current air service or airfare problems, and the factors they believe support a grant award for their proposal. Nearly all of the communities seeking grant funds cited both service deficiencies and high airfares as problems affecting patronage of their air services. Many applicants noted that passengers often drive to other, frequently distant, airports where a wider range of services is offered to more destinations and/or lower airfares are available, but offered that there is sufficient demand for service at the community and that service at the local airport would be more convenient. Many other applicants cited the reduction of air service that has persisted since September 11, 2001, as well as the need and desire for larger, regional jet equipment to stimulate demand and increase use of local services, particularly by the business community.

Because the size and needs of each community differ widely, a range of proposals to address both service and fare issues were submitted. Some communities are seeking funds for air service feasibility studies to facilitate commencement or expansion of air services; others would use grant funds to secure their first air service and direct access to the national air transportation system. Communities that now have some air service have sought funds for a variety of service improvements, including service on new routes by either incumbent or new airlines, additional air carriers, more frequent service in existing markets, and upgraded service with larger turboprop or regional jet aircraft. Communities that seek additional services not only stress the local market benefits to travelers from the increased service, but also the potential to reduce circuitry and air travel time.

Many communities identified the need to lower airfares now available at their airports in order to recapture passengers that are driving to better-served, but less convenient airports and/or airports where lower fares are available. Several communities propose to use funds to attract new or expanded low-fare carrier services to improve price options to travelers and also to encourage other airlines serving the community to reduce their airfares. Others seek to attract new and additional carriers to their communities to increase air carrier options and encourage incumbent carriers to lower airfares for local and connecting services. Some communities have also proposed to subsidize airfares temporarily to stimulate demand and, potentially, reduce fare levels at the community on a longer-term basis without the need for continued fare subsidy support.

A critical component of most proposals is funding to support community-based marketing and promotional initiatives to stimulate demand and community awareness of air services at the local airport. These efforts are directed at publicizing not only the availability of the air services, but also the convenience of using the local airport compared to more congested air service hubs or other, larger, nearby airports.

The overwhelming majority of applicants specified the need to attract new and/or additional air services to their communities. Similar to previous years, the majority of applicants this year have proposed to implement their projects using revenue guarantees or subsidy, together with a variety of marketing and promotional initiatives.

### **Fiscal Year 2005 Grant Awards**

The Small Community Program was established to provide small communities with financial and other types of assistance to address air service issues, particularly those relating to insufficient air service or high airfares. The program is unique in that it encourages and affords communities the opportunity to develop their own solutions to their air service problems based on their particular needs and circumstances. By providing communities substantial input and participation in the development and implementation of the air service projects, the program aims to maximize the potential for success in the communities' endeavors.

Since the inception of the program, the Department has focused on maximizing the number of communities participating in the program, geographic diversity of the selections, and selecting a

variety of different solutions to the problems raised by the communities in order to have a diversity of approaches to addressing the challenges faced by similarly situated communities.

We find that the public interest is best served by following the same approach this year in making our grant awards. We are pleased with the progress made by some of the communities selected previously for grant awards. Of the projects that involve enhanced air service, new or expanded services were instituted at over 50 communities. Many others have implemented aggressive marketing and promotional campaigns that have resulted in the increased use of the services at the airports; and several feasibility studies were conducted providing valuable information to the communities in achieving their air service objectives. However, until the projects are complete, the Department is not in a position to determine whether sustained benefits were derived from these projects. Most grant awards involve projects spanning over a two-to-four-year period. Consequently, many of the fiscal year 2002 awards, the first to be made, have only recently concluded; several others will be completed over the next year. Thus, it remains too soon to draw any firm conclusions from the completed grant awards as to what types of projects are successful. We intend to review the results of the fiscal year 2002 awards and any others that are completed to determine if they provide the guidance for future grant award selections under this program, if continued by Congress, and offer methods of dealing with air service and airfare issues that could serve as models for other similarly-situated small communities. In the meantime, we believe that the public interest is best served this year by following the comprehensive and inclusive approach that we have used in prior years in making the grant award selections.

Against this background, we are selecting 37 grant proposals and will enter into grant agreements with the communities/consortia identified in Appendix A. Grant agreements will be executed with each of the recipients and must be executed with the Department before the recipients can begin to spend funds provided under this order. Finally, grant recipients are subject to all grant conditions and assurances specified in Appendix B to this order.<sup>6</sup> Funds for these awards will be obligated as of the date that each grant agreement is executed with the selected communities.<sup>7</sup>

Many of the applications that we received were meritorious and all were carefully considered. We have selected proposals that incorporate the intent of Congress, meet the goals of the statute, and provide an expanded opportunity to test a variety of approaches to improving small community air service in all regions of the country. For example, many communities experience higher than average airfares and several have very limited access to the national transportation system. This year's selections, which involve both single communities and consortia, will provide financial assistance to over 60 communities in 29 states. All of the selected

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<sup>6</sup> Due to the length of FAA Order 5100-38B, it can be found at the following web address: <http://www2.faa.gov/arp/aip/order/5100-38B.pdf>. You may also contact the Office of Aviation Analysis at 202-366-1053 for a copy of the document.

<sup>7</sup> The funds for the authorized projects must be obligated before the close of the fiscal year, September 30, 2005. Consequently, grant agreements must be fully executed as soon as possible to ensure that the funds are obligated. The Department's grant offers and agreements will be transmitted to the selected communities immediately upon issuance of this order.

communities/consortia met the eligibility criteria for participation in the program. Furthermore, the selected communities are contributing to their respective grant projects from other than airport revenues. Many will also contribute to the project from airport revenues and provide in-kind contributions to further the goals of the proposed service/fare initiatives. In addition to the participation and involvement by the communities/consortia in designing the grant projects, the local contributions reflect a commitment to the grant projects that is important to the success of the proposed service/fare initiatives. Moreover, nearly all of the communities/consortia either have, or will establish, public/private partnerships to enhance community participation and facilitate access to air service for the community/consortia, and all have provided a specific plan to use the funding.

The awards to Somerset, Kentucky; Knox County, Maine; Marshall, Minnesota; Farmington/Poplar Bluff, Missouri; and Ruidoso, New Mexico, will afford these communities the opportunity to secure their first air service or restore air service lost in previous years.

Modesto, California; Marathon, Florida; Rockford, Illinois; Jacksonville, North Carolina; Lawton/Ft. Sill, Oklahoma; and Williamsport, Pennsylvania, all seek to benefit their communities with service by a second carrier. The awards to these communities will facilitate their goals of enhancing competition, providing service in additional city-pair markets, and providing local access to the systems of other airlines and their partners. The award to Modesto will also facilitate the community's desire for improved north-south access to comprehensive air transportation services. The award to Marathon will enhance that community's efforts to provide expanded air services to the Florida Keys served by both the Marathon and Key West airports and will build on the cooperative efforts of the two airports to better serve the region. The awards to Lawton/Ft. Sill and Williamsport will support the efforts of those communities to enhance their access to the east and west, respectively. The award to Rockford will build on that community's success in securing service to major business destinations important to the community.

The awards to Montgomery, Alabama; Durango, Colorado; Idaho Falls, Idaho; Houghton, Michigan; Gulfport/Biloxi, Mississippi; and Greenville, North Carolina, will support the efforts of these communities to expand their services to new routes. By expanding service, either by the incumbent or different airlines, to more destinations, the communities hope to increase the service options for travelers, resulting in both service and fare benefits. Montgomery, Durango, and Idaho Falls all experience higher than average airfares. Montgomery and Durango seek access to new markets that will enhance new economic development interests in their communities. Idaho Falls seeks access to another major hub from a carrier not now serving the community. Houghton, a very isolated community, seeks to gain access to a second hub to provide greater access to the national transportation system for its residents. Gulfport/Biloxi seeks additional service to the northeast. Greenville seeks to reduce circuitry to major northeast destinations by securing service to a northeastern hub.

Alexandria, Louisiana; Sault Sainte Marie, Michigan; and Aberdeen, South Dakota, all seek improvements in their air service through schedule changes or equipment upgrades. Alexandria and Aberdeen seek to upgrade current services to regional jet aircraft. Alexandria, a fairly isolated community, is now served by three carriers and seeks to upgrade all services to regional jets to promote greater patronage of the services available at the airport. Aberdeen is served by only one carrier and is very isolated. That community also seeks to increase patronage of the services by upgauging to larger aircraft. Similarly, Sault Sainte Marie is a very isolated community. It seeks to maintain a dedicated nonstop flight to Detroit for the community. Historically, Sault Sainte Marie's air services have been provided on a linear routing with Alpena, Michigan. Under a grant award last year to Alpena, that community succeeded in securing a dedicated Detroit flight not served on the same routing with Sault Sainte Marie. Sault Sainte Marie was able to secure a dedicated nonstop flight of its own and seeks to maintain operation of that flight until it can become self-sustaining. These grant awards will further explore the ability of such upgrades as a solution to solving the challenges faced by these diverse communities.

Many communities noted in their proposals the impact of low-fare service at other, often more distant airports and the benefits that such service could provide their own local communities. In previous years, awards under this program have supported the introduction or expansion of low-fare services to Akron-Canton, Ohio; Sarasota, Florida; Sioux Falls, South Dakota; and Richmond, Virginia. Akron-Canton benefited from the expansion of AirTran's service in two major markets. Sarasota has also seen the introduction and expansion of AirTran's service at the community. Sioux Falls, South Dakota, has seen the introduction of America West's service to Phoenix, and Richmond, Virginia, has recently seen the introduction by AirTran of the first low-fare air service at its community. This year, our awards to Fargo, North Dakota, and Stewart, New York, will support those communities' efforts to secure low-fare air service and provide a broader base to examine the benefits and viability of low-fare air services at smaller communities.

Other selected communities, including Monterey, California; Ithaca, New York; Florence, South Carolina; Killeen, Texas; Huntington, West Virginia; and the Wyoming consortium propose aggressive marketing campaigns to increase use of the services at their airports. Monterey has recently succeeded in securing service in three new markets and seeks funds to promote enhanced patronage of those services. Similarly, air service to Detroit was recently instituted at Ithaca, replacing the service to the west lost when US Airways discontinued its Pittsburgh service. Ithaca wants to promote increased use of that service and also plans to pursue service by other carriers, building on its service enhancement efforts. Florence and the Wyoming consortium want to use the funds to increase use of the services at their airports. Wyoming plans to coordinate this promotional effort with its own intrastate effort to enhance air service at the ten consortium communities. Killeen has moved its airport onto the Fort Hood airbase, positioning itself for expansion of service as demand grows. Killeen will use the grant funds for an enhanced marketing and promotional campaign to increase awareness of the new and improved airport location. Huntington plans to use the grant funds for service and fare promotional efforts to increase use of the services at the airport with the ultimate goal of attracting additional air carrier services. Monterey, Ithaca, Florence, Killeen, Huntington, and

most of the Wyoming communities experience higher than average airfares. The communities hope that the increased patronage of the services will also facilitate airfare improvements. To date this program has demonstrated significant benefits from increased awareness of the services at the local airport. This year's grant selections include communities of different sizes, with different levels of service, in various regions of the country, and will permit us to examine further the benefits of marketing across this broad spectrum of small communities.

While many communities have specific plans for their air service/airfare initiatives, some communities need some help in determining how best to address their challenges. Massena, New York; Vernal, Utah; the California consortium; and the Oregon/Washington consortium all seek to use the grant funds to conduct various studies designed to enhance their air services or address their air services issues. Massena, a currently subsidized community under the EAS program, wants to study the feasibility of achieving self-sustaining air service that it believes would better meet the demand in its community so that it could voluntarily leave the EAS program. Vernal, also an EAS-subsidized community, wants to examine ways to enhance ridership to support the EAS now being provided. The California consortium involves multiple communities of various sizes throughout the state. Those communities want to conduct a comprehensive study to determine how best to meet the needs of the various consortium members.<sup>8</sup> The multistate consortium of Oregon and Washington communities wants to develop a "self-help" kit for consortium communities. The region where these communities are located is losing service by turboprop aircraft, but many are isolated and too small to support regional jet services. The grant would support a study to help these communities determine what service would best meet their needs and provide help to communities, whether individually or on a regional basis, in securing that service. The grants to all of these communities/consortia will enable them to pursue these various and diverse objectives and could serve to provide guidance to other similarly situated communities.

Finally, four award selections (Hibbing, Minnesota; Bradford, Pennsylvania; Cedar City, Utah; and the Wyoming consortium) involve several communities now receiving subsidized air service under the EAS program. All of these recipients plan to use the grant funds to promote use of the EAS-subsidized air service with the ultimate goal of reducing or eliminating the need to subsidize the service being provided. Our experience at Moab, Utah, under a similar grant in 2002 has suggested that marketing has been very useful in increasing patronage of the service. Bradford also seeks to use a portion of the grant funds for fare-specific promotional initiatives to increase use of the limited services it now receives. Other communities receiving grant awards in previous years are also experimenting with fare initiatives. The combination of these selected grant projects this year will further explore the longer term effects of increased marketing and fare promotions on subsidy requirements at EAS supported communities.<sup>9</sup>

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<sup>8</sup> Because Modesto and Monterey are receiving separate awards, we will not include them in the consortium award.

<sup>9</sup> We note that some grant applicants that currently receive subsidized air service under the EAS program sought to use grant funds to secure air service by other carriers to additional destinations. As we stated in our request for proposals (Order 2005-1-12), we are prepared to entertain applications from EAS-subsidized communities that are directed toward improving use of the EAS being provided. We are not prepared to entertain proposals that would conflict with long-standing EAS policies, including financial support through this program of air services that would compete with the EAS, thus drawing traffic from the already subsidized services and increasing the subsidy requirements for those services.



## **Grant Agreements**

As noted above, the Department will execute grant agreements with each recipient upon the issuance of this order and will contact the communities receiving grants to complete execution of those agreements. In the request for proposals, we stated that communities must establish milestones to monitor the progress of the proposed projects to determine whether amendments are necessary or whether the grant agreement should be terminated. As we have done in the past, milestones and progress reporting requirements will be included in the grant agreements.

Federal funds under this grant program are disbursed on a reimbursable basis, with the communities expending funds for the grant project and then seeking reimbursement. Communities should not proceed with their plans or expend funds for which they would seek reimbursement from the Federal government until the grant agreements have been executed. In seeking reimbursements, grant recipients must provide invoices or other evidence of the expenditure, details about the expenditure and how it relates to the grant project, and evidence of payment. In addition, the legal sponsor is required to certify that each invoice is relevant to the authorized grant project and has been paid. Communities will be required to comply fully with the terms of their proposals and the grant agreements.

Funds allotted for the program remain available until expended. In previous orders, we have stated that returned grant funds would be reallocated among the applicants that had submitted applications in that fiscal year. This program has grown considerably since it was first established. Moreover, previously filed applications become increasingly stale and less reflective of a community's plans and financial capabilities. Due to these factors, if, for a variety of reasons, funds become available, we will announce procedures for reallocation at that time.

## **AIR SERVICE DEVELOPMENT ZONE**

The statute directs the Department to designate an airport in one community awarded a grant under this program as an "Air Service Development Zone," and to work with the community or consortium on means to attract business to the area surrounding the airport, to develop land use options for the area, and provide data, working with the Department of Commerce and other agencies. 49 U.S.C. 41743(h).

The selection of a single community as the Air Service Development Zone serves to highlight that community's resources and commitment to the development of its aviation-and airport-related businesses, services and economic opportunities. Designation as an Air Service Development Zone provides an excellent opportunity for the selected community to work, in conjunction with its grant award, to stimulate economic development and increase use of the airport facilities. Importantly, the designation also creates a productive relationship between the community and the Federal government to achieve these goals. To this end, the Department assists the designated community in refining its air service development plan and working, as needed, with other government agencies to implement those plans. This partnership, in turn, affords the Department greater insight into the needs and challenges faced by small communities in developing

their air services and the ways that we can more effectively help small communities address those needs and challenges.

We have decided to select Hibbing, Minnesota, as the fiscal year 2005 Air Service Development Zone. Hibbing has a 120-acre fully developed industrial park which has the necessary infrastructure to support additional business development. In addition, rail and road access are available to the south and the east of the industrial park, facilitating further development of the region. The community was recently designated by the Minnesota legislature as a JOBZ zone and, thus, can offer businesses various income, sales, and tax exemptions to foster business development in the area. The community has also recently completed a study of economic development potential for the region and plans to use that study to target specific businesses that best fit the resources and opportunities available in the community, primarily natural resources and tourism, in conjunction with the air service development zone designation.

As in our past requests for proposals, the Department requested communities interested in this designation to indicate that interest clearly in their applications and that they provide information to support their selection in a separate section of their grant proposals. Of the communities receiving grant awards by this order, three--Hibbing, Minnesota; Cedar City, Utah; and Vernal, Utah--complied with this requirement. While all three offered various advantages and attributes to support their designation, Hibbing provided the best combination of infrastructure, modal, and economic attributes for selection as the air service development zone this year. We look forward to working with Hibbing on its air service development plans.

## **USE OF REMAINING FUNDS**

For fiscal year 2005, Congress appropriated \$20 million for the Small Community Program, of which \$19,840,000 is available for distribution. The grant awards made by this order would use \$18,952,685 of these funds. The remaining funds will be transferred to the Essential Air Service (EAS) program.

The EAS program guarantees a minimum level of air service to communities that were receiving air service by a certificated air carrier on October 24, 1978, the effective date of the Airline Deregulation Act. It is a mandatory program and the Department is required to ensure that service to these communities is provided. The Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, PL 109-13, May 11, 2005, recognized that the FY 2005 funds appropriated for the EAS program may not be sufficient to meet the service needs of the communities encompassed by that program. To ensure sufficient funding for that program for FY 2005 and through any period covered by an Act making continuing appropriations for FY 2006, the Emergency Supplemental Appropriations Act provides, in part, that the Secretary shall transfer "such sums as may be necessary to carry out the essential air service program from any available amounts appropriated to or directly administered by the Office of the Secretary."

Because the EAS program expects a shortfall in fiscal year 2005, the Department has determined that it is necessary to use a portion of the funding made available for the Small Community Program in fiscal year 2005 to meet the financial needs of the EAS program.

As a result, having less available funding, we are making fewer awards than permitted under the statute and, in some cases we have reduced the grant award amounts from what the communities have requested. However, in all cases where the grant awards are less than what was requested we believe that we are providing sufficient funding for each applicant to implement its proposed project. Monterey and Florence propose comprehensive marketing programs and the funding awarded will provide significant support for these efforts. Rockford requested \$3 million for its air service enhancement project, but expressed a willingness to accept a reduced grant award. Our award to that community, while considerably less than requested, will significantly enhance its efforts to build on its recent air service development success. Our awards to Somerset and Sault Sainte Marie are comparable to awards to other communities for similar projects and should not adversely affect either community's proposed air service project.

**ACCORDINGLY,**

1. We select the communities/consortia listed in Appendix A to receive grant awards under the Small Community Air Service Development Program for fiscal year 2005 as described in this order;
2. We designate Hibbing, Minnesota, as the fiscal year 2005 Air Service Development Zone;
3. Grant recipients are subject to all grant conditions and assurances specified in Appendix B to this order and FAA Order 5100-38B;
4. Grant recipients must execute a grant agreement with the Department before they can begin to spend funds provided under this order;
5. Grant recipients awarded less than the amount that they requested in their proposals must execute grant agreements with the Department of Transportation, or notify the Department that they do not accept the Department's grant offer no later than 14 calendar days from the issuance of this order; and

6. A copy of this order will be served on the legal sponsor for each of the communities awarded grants by this order.

By:

**KARAN K. BHATIA**

Assistant Secretary for Aviation  
and International Affairs

(SEAL)

*An electronic version of this document is available  
on the World Wide Web at <http://dms.dot.gov>*

SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM  
FY 2005 GRANT AWARDS

	<u>COMMUNITY</u>	<u>STATE</u>	<u>GRANT AMOUNT</u>	<u>DUNS NUMBER</u>
1	Montgomery	AL	\$600,000	155618283
2	Modesto	CA	\$550,000	086168093
3	Monterey	CA	\$500,000*	057069445
4	California Consortium	CA	\$245,020	790845051
5	Durango	CO	\$750,000	010628352
6	Marathon	FL	\$750,000	147211044
7	Macon	GA	\$507,691	069174449
8	Idaho Falls	ID	\$500,000	190437095
9	Rockford	IL	\$1,000,000*	074572462
10	Somerset	KY	\$950,000*	074049016
11	Alexandria	LA	\$500,000	794423335
12	Knox County	ME	\$555,000	168559107
13	Hancock/Houghton	MI	\$516,000	015217367
14	Sault Sainte Marie	MI	\$587,000*	086177045
15	Hibbing	MN	\$485,000	185184355
16	Marshall	MN	\$480,000	070747316
17	Farmington/Poplar Bluff	MO	\$936,404	053453080
18	Gulfport/Biloxi	MS	\$750,000	088924246
19	Great Falls	MT	\$220,000	156130148
20	Greenville	NC	\$450,000	002511376
21	Jacksonville	NC	\$500,000	156199838
22	Fargo	ND	\$675,000	116119731
23	Ruidoso	NM	\$600,000	014122873
24	Ithaca	NY	\$500,000	075823765
25	Stewart (Newburgh)	NY	\$250,000	146242784
26	Massena	NY	\$400,000	077308237
27	Lawton/Ft. Sill	OK	\$570,000	102393394
28	Oregon/Washington Consortium	OR/WA	\$180,570	155761620
29	Bradford	PA	\$220,000	071487847
30	Williamsport	PA	\$500,000	075998641
31	Florence	SC	\$500,000*	077213721
32	Aberdeen	SD	\$450,000	077636256
33	Killeen	TX	\$280,000	127789972
34	Cedar City	UT	\$155,000	073013153
35	Vernal	UT	\$40,000	050534361
36	Huntington	WV	\$500,000	054108519
37	Wyoming Consortium	WY	\$800,000	106756799
	Total		\$18,952,685	

\*Grant amount awarded is less than what the community had requested.

**OFFICE OF THE SECRETARY  
DEPARTMENT OF TRANSPORTATION**

**TITLE VI ASSURANCE**

(Implementing Title VI of the Civil Rights Act of 1964, as amended)

**ASSURANCE CONCERNING NONDISCRIMINATION ON THE  
BASIS OF DISABILITY IN FEDERALLY-ASSISTED PROGRAMS  
AND ACTIVITIES RECEIVING OR BENEFITING FROM  
FEDERAL FINANCIAL ASSISTANCE**

(Implementing the Rehabilitation Act of 1973, as amended, and the  
Air Carrier Access Act of 1986)

49 CFR Parts 21 and 27 and 14 CFR Parts 271 and 382

\_\_\_\_\_  
(Name of Grant Recipient) (the Grant Recipient) HEREBY AGREES  
THAT:

I. As a condition to receiving any Federal financial assistance from the Department of Transportation, it will comply: with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d--42 U.S.C. 2000d-4; all requirements imposed by or pursuant to: Title 49, Code of Federal Regulations, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act of 1964; and other pertinent directives so that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the Department of Transportation. This assurance is required by Title 49, Code of Federal Regulations, section 21.7(a) and Title 14, Code of Federal Regulations, section 271.9(c).

II. As a condition to receiving any Federal financial assistance from the Department of Transportation, it will comply with: section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794); the Air Carrier Access Act of 1986 (49 U.S.C. 1374(c)); and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Part 27, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance, Title 14, Code of Federal Regulations, Part 382, Nondiscrimination on the Basis of Handicap in Air Travel; and other pertinent directives so that no otherwise qualified person with a disability, be excluded from participation in, be denied the benefits of, be

discriminated against by reason of such handicap in the provision of air transportation, or otherwise be subjected to discrimination under any program for which the Recipient receives Federal financial assistance from the Department of Transportation. This assurance is required by Title 49, Code of Federal Regulations, section 27.9 and Title 14, Code of Federal Regulations, sections 271.9(c) and 382.9.

III. It will promptly take any measures necessary to effectuate this agreement. The Recipient further agrees that it shall take reasonable actions to guarantee that it, its contractors and subcontractors subject to the Department of Transportation regulations cited above, transferees, and successors in interest will comply with all requirements imposed or pursuant to the statutes and Department of Transportation regulations cited above, other pertinent directives, and the above assurances.

IV. These assurances obligate the Recipient for the period during which Federal financial assistance is extended. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the statutes and Department of Transportation regulations cited above, other pertinent directives, and the above assurances.

V. These assurances are given for the purpose of obtaining Federal grant assistance under the Small Community Air Service Development Pilot Program and are binding on the Recipient, contractors, subcontractors, transferees, successors in interest, and all other participants receiving Federal grant assistance in the Small Community Air Service Development Pilot Program. The person or persons whose signatures appear below are authorized to sign this agreement on behalf of the Grant Recipient.

VI. In addition to these assurances, the Recipient agrees to file: a summary of all complaints filed against it within the past year that allege violation(s) by the Recipient of Title VI of the Civil Rights Act of 1964, as amended, section 504 of the Rehabilitation Act of 1973, as amended, or the Air Carrier Access Act of 1986; or a statement that there have been no complaints filed against it. The summary should include the date the complaint was filed, the nature of the complaint, the status or outcome of the complaint (*i.e.*, whether it is still pending or how it was resolved).

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Date

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Legal Name of Grant Recipient

By:

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Signature of Authorized Official

**UNITED STATES OF AMERICA**  
**DEPARTMENT OF TRANSPORTATION**  
**OFFICE OF THE SECRETARY**  
**OFFICE OF AVIATION ANALYSIS**

**CERTIFICATION REGARDING INFLUENCING ACTIVITIES**

Certification for Contracts, Grants, Loans,  
and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Influencing Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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Signature

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Date

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Title

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Grant Recipient



**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
OFFICE OF AVIATION ANALYSIS**

**CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS  
IN THE PERFORMANCE OF SMALL COMMUNITY AIR SERVICE PURSUANT TO  
GRANT AWARD UNDER THE SMALL COMMUNITY AIR SERVICE DEVELOPMENT  
PROGRAM**

A. The grant recipient certifies that it will, or will continue, to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grant recipient's workplace, and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about--

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of work supported by the grant award be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment supported by the grant award, the employee will--

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of conviction. Employers of convicted employees must provide notice, including position title, to the Office of Aviation Analysis. Notice shall include the order number of the grant award;

(f) Taking one of the following actions, within 30 days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted--

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended, or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

B. The grant recipient *may*, but is not required to, insert in the space provided below the site for the performance of work done in connection with the specific grant.

Places of Performance (street address, city, county, state, zip code). For the provision of air service pursuant to the grant award, workplaces include outstations, maintenance sites, headquarters office locations, training sites and any other worksites where work is performed that is supported by the grant award.

_____	_____
_____	_____
_____	_____
_____	_____

Check [    ] if there are workplaces on file that are not identified here.

\_\_\_\_\_  
Grant Recipient Signature

\_\_\_\_\_  
Date

## **SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM**

### **GRANT ASSURANCES**

**Certification.** The Grantee hereby assures and certifies, with respect to this grant, that:

**1. General Federal Requirements.** It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

#### **Federal Legislation**

- a. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.
- b. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq. Airport Assurances (9/99)
- c. Hatch Act - 5 U.S.C. 1501, et seq.
- d. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.
- e. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).
- f. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.
- g. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- h. Clean Air Act, P.L. 90-148, as amended.
- i. Coastal Zone Management Act, P.L. 93-205, as amended.
- j. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.1
- k. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- l. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- m. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, et seq.
- n. Power Plant and Industrial Fuel Use Act of 1978 - Section 403 - 42 U.S.C. 8373.
- o. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.
- p. Copeland Anti-kickback Act - 18 U.S.C. 874.
- q. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.
- r. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- s. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.

#### **Executive Orders**

Executive Order 11246 - Equal Employment Opportunity  
Executive Order 11990 - Protection of Wetlands  
Executive Order 11998 - Flood Plain Management  
Executive Order 12372 - Intergovernmental Review of Federal Programs.  
Executive Order 12898 - Environmental Justice

#### **Federal Regulations**

- a. 14 CFR Part 13 - Investigative and Enforcement Procedures.
- b. 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- c. 29 CFR Part 1 - Procedures for predetermination of wage rates.
- d. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.
- e. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction con-

tracts subject to the Contract Work Hours and Safety Standards Act).

f. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).

g. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.

h. 49 CFR Part 23 - Participation by Disadvantaged Business Enterprise in Airport Concessions.

i. 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.

j. 49 CFR Part 26 - Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.

k. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.

### **Office of Management and Budget Circulars**

a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.

b. A-133 - Audits of States, Local Governments, and Non-Profit Organizations

Specific assurances required to be included in grant agreements by any of the above laws, regulations, or circulars are incorporated by reference in the grant agreement.

### **2. Responsibility and Authority of the Grantee.**

a. It has legal authority to apply for the grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

**3. Fund Availability.** It has sufficient funds available for that portion of the project costs that are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under the grant agreement that it will own or control.

### **4. Preserving Rights and Powers.**

a. It will not take or permit any action that would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the grant agreement without the written approval of the DOT, and will act promptly to acquire, extinguish, or modify any outstanding rights or claims of right of others that would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the DOT.

### **5. Accounting System, Audit, and Record Keeping Requirements.**

a. It shall keep all project accounts and records that fully disclose the amount and disposition by the recipient of the proceeds of the grant, the total cost of the project in connection with which the grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.

b. It shall make available to the DOT and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books,

documents, papers, and records of the recipient that are pertinent to the grant. The DOT may require that a recipient conduct an appropriate audit. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which the grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

**6. Minimum Wage Rates.** It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement that involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

**7. Economic Nondiscrimination.** In any agreement, contract, lease, or other arrangement under any project funded under this grant agreement and for which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the Grantee will insert and enforce provisions requiring the contractor to (1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and (2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

**8. Engineering and Design Services.** It will award each contract or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the Grantee.

**9. Foreign Market Restrictions.** It will not allow funds provided under this grant to be used to fund any project that uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

**10. Relocation and Real Property Acquisition.** (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

**11. Buy America.** In accepting this award, the grant recipient agrees to comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the "Buy American Act"). The recipient should review the provisions of the Act to ensure that expenditures made under this award are in accordance with it. In compliance with Section 508 of Public Law 108-447, the grant recipient is hereby notified that it is in the sense of the Congress of the United States that only American-made equipment and products should be purchased with financial assistance provided under this award.

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Grant Recipient

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Signature of Authorized Grant Recipient Official

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Date

## **OFFICE OF THE SECRETARY OF TRANSPORTATION**

### **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS -- PRIMARY COVERED TRANSACTIONS**

#### **Instructions for Certification**

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and

frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

**Certification Regarding Debarment, Suspension, and Other Responsibility Matters -- Primary Covered Transactions**

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

_____	_____
Name	Affiliation
_____	_____
Title	Date

## **OFFICE OF THE SECRETARY OF TRANSPORTATION**

### **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION -- LOWER TIER COVERED TRANSACTIONS**

#### **Instructions for Certification**

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge



and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion --  
Lower Tier Covered Transactions**

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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Name

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Title

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Affiliation

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Date